IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.E.A. No.134 of 2006
Date of Decision:20.11.2006

The Commissioner, Central Excise Commissionerate, Chandigarh
.....Appellant

Vs.

M/s Mahadev Steel Industries, Distt. Fatehgarh Sahib
.....Respondent

CORAM:- HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present:- Mr. M.S.Guglani, Advocate
for the appellant.

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ORDER

This appeal has been preferred under Section 35G of the Central Excise Act, 1944 (for short, `the Act') by revenue against the order dated 02.12.2005 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi, proposing following substantial questions of law:-

"i) Whether Tribunal was justified in dismissing the application for rectification of mistake only on the ground of limitation?

ii) Whether Tribunal is justified in ignoring the directions given by this Hon'ble High Court vide order dated 09.08.2005 that Tribunal shall consider on its own merits the application filed by revenue for condonation of delay in filing the application for rectification of mistake, in accordance with law, keeping in view the factum of pendency of appeal before the Hon'ble High Court?"

iii) Whether Tribunal was justified in dismissing the application for condonation of delay on the ground of absence of statutory provision for condonation of delay?"

Learned counsel for the revenue does not dispute that even if the issue is considered on merits, about the admissibility of deemed credit, the issue is covered against the revenue by the judgment of this Court in **Vikas Pipe v. Commissioner of C.Ex., Chandigarh-II**, 2003 (158) ELT 680.

In view of the above, the appeal is dismissed.

Before parting with the order, we are constrained to deprecate the filing of appeals before this Court in reckless and mechanical manner without even examining the merits of the controversy and the amounts involved. There appears to be non-application of mind by the persons at the helm of affairs, resulting in wastage of public money and time. Though the judgment in the case of **Vikas Pipe's case** (supra) was delivered by this Court on 06.10.2003 and it was not disputed before us that in the case of **Vikas Pipe's case** (supra) and a number of other similar cases decided on that basis, the revenue did not file further appeals, s
till, in the present case where the amount of duty involved is merely Rs.86,595/-, for the reasons best known to the appellants, firstly appeal was filed against the order of CEGAT before this Court. The same was dismissed as withdrawn with liberty to file rectification application before the Tribunal. After the same was also dismissed by the Tribunal, the present appeal was filed before this Court. The amount of energy, man-hours and the money spent on the present litigation must be much more than the amount involved. The question needs consideration at appropriate level so that public money and time is not wasted.

On earlier occasions, inter-alia, in following cases, copies of orders passed by this Court were sent to the Board and other officers:-

1. C.E.A. No.53 of 2005 titled as **C.C.E. Ludhiana Vs. M/s Valabh Steel Ltd.,** decided on 7.8.2006
2. C.E.C. No.36 of 2004 titled as **C.C.E. Panchkula Vs. M/s Jai Forgings & Stamping P.Ltd.,** decided on 11.7.2006

Let a copy of this order be sent to the Secretary Finance and Secretary, Law, Govt. of India, New Delhi.

(ADARSH KUMAR GOEL)
JUDGE

November 20, 2006 **(RAJESH BINDAL)**
renu **JUDGE**